
TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #08-674

DIGEST

Amends [326 IAC 13-1.1-1](#) to add criteria to determine if an antique vehicle is exempt from the Lake County and Porter County motor vehicle inspection and maintenance program. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: August 27, 2008, Indiana Register (DIN: [20080827-IR-326080674FNA](#)).

Second Notice of Comment Period: February 11, 2009, Indiana Register (DIN: [20090211-IR-326080674SNA](#)).

Notice of First Hearing: February 11, 2009, Indiana Register (DIN: [20090211-IR-326080674PHA](#)).

Change in Notice of Hearing: May 13, 2009, Indiana Register (DIN: [20090513-IR-326080674CHA](#)).

Date of First Hearing: July 1, 2009.

PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)

[IC 13-14-9-4.5](#) states that a board may not adopt a rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-4](#) until the board has conducted a third comment period that is at least 21 days long.

Because this proposed rule is not substantively different from the draft rule published on February 11, 2009, at DIN: [20090211-IR-326080674SNA](#), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from February 11, 2009, through March 13, 2009, on IDEM's draft rule language.

IDEM received comments from the following parties:

Auto Clubs Council of Indiana, Noblesville, Indiana, Hamilton County (ACC)
National Automotive & Truck Museum of the United States, Auburn, Indiana, DeKalb County (NATMUS)
Specialty Equipment Market Association, Washington, D.C. (SEMA)
Alex Keddle, Carmel, Indiana, Hamilton County (AK)
Bruce & Carol Gable, Indianapolis, Indiana, Marion County (BCG)
Brent E. Robertson, Carmel, Indiana, Hamilton County (BER)
Brandon Day, Dale, Indiana, Spencer County (BD)
Bob & Linda Burkert, Tipton, Indiana, Tipton County (BLB)
Bob & Rosalie Gollner, Kokomo, Indiana, Howard County (BRG)
Charles Hosier, Kokomo, Indiana, Howard County (CH)
Carl L. Niethammer, Fishers, Indiana, Hamilton County (CLN)
Charley Stillions, Martinsville, Indiana, Morgan County (CS)
Don and Dolores Hurlburt, Chesterton, Indiana, Porter County (DDH)
Dennis E. Horvath, Indianapolis, Indiana, Marion County (DEH)
Dennis Shirley, Bunker Hill, Indiana, Miami County (DS)
Donald W. Allen, Carmel, Indiana, Hamilton County (DWA)
Edward J. Cordell, Kokomo, Indiana, Howard County (EJC)
Gregory S. Eaton, Brownsburg, Indiana, Hendricks County (GSE)
Josie A. Jenkins, Russiaville, Indiana, Howard County (JAJ)
John A. Ross, Noblesville, Indiana, Hamilton County (JAR)
J. Albert Seidel, Indianapolis, Indiana, Marion County (JAS)
Jon Culver, Westfield, Indiana, Hamilton County (JC)
James C. Burkert, Elwood, Indiana, Tipton County (JCB)
Jerry & Jeannine Bristow, Bargersville, Indiana, Johnson County (JJB)
Jim Krebs, Pendleton, Indiana, Madison County (JK)
Jerry L. Ravencraft, Noblesville, Indiana, Hamilton County (JLR)
Keith Rossell, Zionsville, Indiana, Boone County (KR)
Mike Chrispyn, Elkhart, Indiana, Elkhart County (MC)
Michael E. Housand, Morgantown, Indiana, Morgan County (MEH)
Mark Henderson, Kokomo, Indiana, Howard County (MH)

Marcella VanSickle, Delphi, Indiana, Carroll County (MV)
Nyal J. Weaver, Osceola, Indiana, St. Joseph County (NJW)
Phil DeSanto, Terre Haute, Indiana, Vigo County (PD)
R. Keith Hyatt, New Harmony, Indiana, Posey County (RKH)
Ricardo Pacetti, Carmel, Indiana, Hamilton County (RP)
Steve Hutto, Carmel, Indiana, Hamilton County (SH)
Scott Willis, Indianapolis, Indiana, Marion County (SW)
Thomas Fogg, Princeton, Indiana, Gibson County (ThosF)
Tom Frye, Tipton, Indiana, Tipton County (TF)
Tom & Janice White, Bloomington, Indiana, Monroe County (TJW)
Thomas Moser, OD, Elwood, Indiana, Madison County (TM)
Timothy M. Pohlman, Kokomo, Indiana, Howard County (TMP)
Victor L. Brown, Tipton, Indiana, Tipton County (VLB)
Wesley D. Parrish, Fort Wayne, Indiana, Allen County (WDP)

The following is a summary of the comments received and IDEM's responses thereto:

Comment: At this time the rule only pertains to two counties in Indiana, but could very easily be enacted statewide in the future. (PD)

Response: The commenter is correct in that at this time the motor vehicle inspection and maintenance rule, [326 IAC 13-1.1](#), only applies in Lake and Porter counties. The current Lake and Porter county motor vehicle inspection and maintenance (I/M) program was developed to meet the requirements of Section 182(c)(3) of the 1990 Clean Air Act Amendments (CAA) that requires an enhanced I/M program in urbanized areas classified as serious or above for the ozone standard. Lake and Porter counties were classified as severe nonattainment under the 1-hour ozone standard; therefore, enhanced I/M was implemented to meet the CAA requirement. The I/M rules are part of the state implementation plan for ozone. Although all areas in Indiana now meet the current ozone standard, it is necessary to keep in place those measures implemented to meet the standard or to assure that equivalent emissions reductions are in place. Based on current air quality trends and the requirements of the CAA, there is no reason to require I/M statewide.

Comment: Current law provides for a historic registration and plate if a vehicle owner so chooses. The owner of an older vehicle should not lose the choice of standard vehicle registration and be forced into a more restrictive historic vehicle registration and lose the ability to drive the vehicle how ever much he wants. (BER, ACC, CLN, JLR, AK, EJC, KR, MH, JC, CH, BRG, MV, TMP, DS)

Comment: This regulatory proposal will require vehicles older than 25 years to be registered and plated as a historic vehicle with annual mileage limits and be subject to periodic vehicle emissions inspections. (BER, ACC, CLN, JLR, AK, EJC, KR, MH, JC, CH, BRG, MV, TMP, DS)

Response: The current rule at [326 IAC 13-1.1-2](#)(d)(10) exempts from I/M testing requirements "antique vehicles" defined at [IC 9-13-2-3](#). The exemption created by this definition conflicts with the applicability requirements at [326 IAC 13-1.1-2](#)(a)(1) that states that vehicle model years 1976 and newer in Lake and Porter counties are subject to I/M testing requirements of [326 IAC 13-1.1](#).

Antique vehicles were added as a specific exemption in a 2006 rulemaking (LSA #06-284(F)). The intent of the 2006 rulemaking was to allow vehicles in Lake and Porter counties that are registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from I/M testing.

The owner of an older vehicle in Lake and Porter counties may choose standard vehicle registration. Vehicles that are subject to [326 IAC 13-1.1](#) with standard vehicle registration in Lake and Porter counties are subject to the testing requirements of the I/M program.

The purpose of this rulemaking is to provide vehicles in Lake and Porter counties that are subject to [326 IAC 13-1.1](#), but that meet a narrowed definition of "antique vehicle", with an exemption from the testing requirements of the I/M program. The definition of "antique vehicle" is being amended to clarify that, for the purposes of the I/M program, in Lake and Porter counties an antique vehicle is a vehicle that is at least twenty-five (25) years old, registered and plated as a historic motor vehicle, has in place the federally required pollution control equipment for that make and model year, and is driven a maximum of 3,000 miles per year. The owner of such vehicle must present the vehicle at a clean air car check vehicle emission testing site in accordance with the applicable test cycle solely for the purpose of verifying that the vehicle is at least 25 years old, is registered and plated as a historic motor vehicle, has in place the federally required pollution control equipment for that make and model year, and that the vehicle has not been driven more than 3,000 miles per year.

Comment: Current law exempts 25 year old vehicles from emissions testing. (BER, ACC, CLN, JLR, AK, EJC, KR, MH, JC, CH, BRG, MV, TMP, DS)

Comment: Existing law in Indiana exempts any vehicle 25-years old and older from emissions testing. (ThosF, DEH)

Response: The commenters are correct that the current rule exempts antique vehicles, as defined at [IC 9-13-2-3](#), in Lake and Porter counties from I/M testing. As such, the current rule conflicts with the applicability

requirements at [326 IAC 13-1.1-2\(a\)\(1\)](#) that states that vehicle model years 1976 and newer in Lake and Porter counties are subject to the testing requirements of [326 IAC 13-1.1](#).

Antique vehicles were added as a specific exemption to I/M testing in a 2006 rulemaking (LSA #06-284(F)). The intent of the 2006 rulemaking was to provide vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles with an exemption from I/M testing requirements.

When antique vehicles were added to the list of vehicles exempt from I/M program testing requirements it was not clear that the term "antique vehicle" as defined at [IC 9-13-2-3](#) (a motor vehicle or motor scooter that is at least 25 years old) was overly broad and would result in exempting approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties from I/M testing; these are vehicles from vehicle model years 1976-1984. The rule as amended that exempts vehicles that are at least 25 years old from I/M testing requirements represents a relaxation of the ozone state implementation plan and is not federally approvable.

The purpose of this rulemaking is to narrow the definition of "antique vehicle" for purposes of the I/M program to mean not only that a motor vehicle must be at least 25 years old, but that it must be registered and plated with a historic motor vehicle plate with the Indiana bureau of motor vehicles, driven a maximum of 3,000 miles per calendar year, and have in place the federally required pollution control equipment for that make and model year. Such vehicles are exempt from I/M testing requirements provided the vehicle is presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the exemption requirements are met.

Comment: Vehicles 25-years old and older constitute a small portion of the overall vehicle population and are a poor source from which to look for emissions reduction. (ThosF, DEH)

Comment: Indiana's current emissions testing exemption recognizes the minimal impact of vehicles 25-years old and older on vehicle emissions and air quality. (ThosF, DEH)

Comment: There is a very minimal impact of vehicles 25-years old and older on air quality. These cars count for such a small portion of the over all vehicle population. They are a poor source from which to look for emissions reductions. (MEH, JAJ, CS, SH, VLB, BD, JAR, JJB, SEMA, WDP, GSE, BCG, SW)

Comment: Singling out a small class of vehicle and owner that contributes very little to the region's emissions is not an appropriate action for legislators and regulators as it will not impact the stated mission of reducing emissions and will only add to state's costs and take away rights and privileges of the public. (BER, ACC, CLN, JLR, AK, EJC, KR, MH, JC, CH, BRG, MV, TMP, DS)

Comment: Due to the low number of such vehicles and high percentage that are well maintained hobby vehicles, there would be little if any impact to the regions emissions. Zero gain for the state's expense to implement and maintain such a requirement. (BER, ACC, CLN, AK, EJC, KR, MH, JC, CH, BRG, MV, TMP, DS)

Comment: These vehicles are lovingly restored, kept and maintained to the highest standards, carefully tuned to keep emissions low, and infrequently driven. (PD, BLB, MEH, RKH, NJW, JAS, DWA, JAJ, SH, BD, NATMUS, JAR, TF, SEMA, WDP, GSE)

Comment: Antique vehicles are overwhelmingly well-maintained and infrequently driven (about one-third the miles each year as a new vehicle). (ThosF, DEH)

Response: There are approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties for which an owner could claim an exemption from testing requirements based solely on the definition of "antique vehicle" at [IC 9-13-2-3](#); these are vehicles from vehicle model years 1976-1984. The vast majority of these vehicles are current with respect to their I/M inspections.

IDEM recognizes that there is a class of older vehicles that are well maintained, and of show quality. The intent of the 2006 rulemaking was to provide an exemption from the I/M testing requirements for vehicles that are "antique vehicles" of show quality. The purpose of this rulemaking is to narrow the definition of "antique vehicle" to mean not only that must a vehicle be 25 years or older but that it must be registered and plated with a historic motor vehicle plate with the Indiana bureau of motor vehicles, driven a maximum of 3,000 miles per calendar year, and have in place the federally required pollution control equipment for that make and model year. This amendment will ensure continued compliance with the national ambient air quality standard for ozone and will contribute to regional attainment for ozone.

Comment: Requiring these cars to be tested annually and restricted in mileage only adds to the frustrations of the owners and the wallets of the testing facilities. (PD)

Response: This rulemaking will not result in antique vehicles that are 25 years or older, registered and plated with a historic motor vehicle plate with the Indiana bureau of motor vehicles, driven a maximum of 3,000 miles per calendar year, and that have in place the federally required pollution control equipment for that make and model year being tested annually. It will require motor vehicles that are of 1976 vintage or newer to meet the applicable test cycle for the specified model vehicle year. If the vehicle meets the definition of antique vehicle, it is exempt from I/M testing but the vehicle must be presented at the clean air car check vehicle emission testing site to verify that it does meet the exemption requirements.

The intent of this rulemaking is to adopt a federally approvable exemption from I/M testing requirements for

vehicles that are classified as antique and are of show quality in Lake and Porter counties. The current definition is overly broad and results in approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties being exempted from testing requirements solely because they are at least 25 years old.

Comment: The proposed rule change to require emission testing and modern control equipment on antique vehicles is a waste of time and money for both the state and the owners. (NJW)

Response: The fiscal impact to the state and regulated community of this rulemaking will be negligible. This rulemaking will benefit the citizens of Indiana by ensuring that 4,600 of the potentially highest polluting cars and trucks in Lake and Porter counties are included in the I/M testable fleet and will ensure that the pollution control systems are intact and operating properly. This rulemaking will ensure continued compliance with the CAA, maintenance of the national ambient air quality standard for ozone, and will contribute to regional ozone attainment efforts.

Comment: Most of these cars were not manufactured to meet today's specifications. (SW)

Response: The commenter is correct that most motor vehicles that were manufactured 25 or more years ago were not manufactured to meet today's pollution control specifications. Vintage 1976-1984 light-duty vehicles registered in Lake and Porter counties have been tested using techniques and standards appropriate to the vintage of the vehicle on a biennial basis since 1984. The State of Indiana will continue to use the appropriate methodologies and standards to test these vehicles.

Comment: The lawmakers of the State of Indiana are currently attempting to trim the budget for the state. Imposing this Antique Vehicle law would add a great cost to the budget. The cost of inspection forms, windshield identification stickers, administrative costs and other various expenses would, in my opinion, be too great to justify the small result in reduced emissions from these vehicles. (SH)

Response: IDEM anticipates that the fiscal impact of this rulemaking to the state and regulated community will be negligible. This rulemaking will not result in an increase in record keeping or oversight.

Comment: We are convinced that these amendments would cause definite and unnecessary burden to Indiana citizens for no verifiable emissions reduction benefit. (SEMA)

Response: This rulemaking will not place an unnecessary burden on Indiana citizens; it will impact a limited number of older vehicles in Lake and Porter counties. The rulemaking will ensure that air quality gains resulting from properly operating vehicle exhaust emissions systems are maintained. The actual fiscal impact to the state and regulated community of this rulemaking will be negligible since the vast majority of the vehicles that are at least 25 years old and impacted by this rulemaking are current on their I/M inspection.

Comment: The attempt to reclassify the antique vehicle is ludicrous. Everyone is in agreement that it is important to preserve our heritage. The antique vehicle provides that purpose. It takes a lot of energy and money to restore a vehicle, we do not need to jump through unnecessary hoops to get there. Antique vehicles (as a group) constitute a small number, less driven, well maintained vehicles thus not contributing to air pollution. (DDH)

Response: The I/M program applies to light-duty and medium-duty motor vehicles that are model years 1976 and newer that are primarily operated in Lake County or Porter County. The current rule exempts a motor vehicle or motor scooter that is at least 25 years old from the I/M program under the "antique vehicle" exemption. The breadth of this exemption is beyond what was intended by the prior rulemaking as it exempts approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. This rulemaking will clarify the intent of the prior rulemaking which was to allow vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from testing. It will ensure continued compliance with the national ambient air quality standard for ozone and will contribute to regional ozone attainment efforts.

Comment: Antique vehicles are not driven enough miles to make a significant difference in air quality. (NJW)

Comment: Any gains in air quality achieved by focusing on such a small percentage of the automotive population would not even be measurable. (PD)

Response: Restricting the definition of "antique vehicle" to vehicles that are at least 25 years old, registered and plated with a historic motor vehicle plate with the Indiana bureau of motor vehicles, driven a maximum of 3,000 miles per calendar year, and that have in place the federally required pollution control equipment for that make and model year will not significantly improve air quality in Lake and Porter counties but it will help maintain air quality in Lake and Porter counties, thus helping maintain attainment of the ozone national ambient air quality standard.

Comment: If you are going to target our hobby vehicles for emissions tests, you will mostly be wasting your time and our money as I have been going to car shows for many years and have never seen any of these cars blowing smoke. (BLB)

Comment: State's resources should be used for actions that will make an impact on the environment and not target the very few historic vehicles remaining that are seldom driven and usually only to and from a show. (AK)

Comment: If your purpose is to make a largely noticeable reduction in exhaust emissions from these

vehicles, I believe you would be making a big to do for nothing. (VLB)

Comment: Given the very small percentage of vehicles this will even effect, I feel this modification is a total waste of time and resources. (PD)

Response: This rulemaking will benefit the citizens of Indiana by requiring that approximately 4,600 of the potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties be presented for a biennial I/M test. Assuring that pollution control equipment appropriate to the vintage of the vehicle is operating properly will help maintain air quality in these two counties. Maintaining air quality will ensure continued compliance with the national ambient air quality standard for ozone and will contribute to regional ozone attainment efforts. The actual fiscal impact of this rulemaking to the state and regulated community will be negligible.

Comment: This proposal could adversely impact businesses associated with the restoration of vintage vehicles. (BRG)

Comment: Most of the OEM and aftermarket parts support for these emission systems has long since vanished and may even further erode if any U.S. auto manufacturers should go bankrupt. (PD)

Comment: It would be a huge challenge, if not impossible, for the car owners to even find these replacement parts because they were wore out and discarded many years ago. Just finding the brackets to mount these parts would be a huge challenge. (VLB)

Response: The proposed rule change should have no impact on businesses associated with the restoration of vintage vehicles. The State of California requires I/M testing on vehicles that are of 1966 vintage or newer. This testing requirement has created a large demand for old emissions repair parts. Most of the parts for 1976 and newer vehicles are available at local auto parts stores and there are a variety of specialty pollution control parts suppliers available for those parts that are hard to find. The most commonly replaced parts such as catalytic converters, carburetors, exhaust gas recirculation valves, and oxygen sensors are readily available for 1976-1984 vehicles.

Comment: The negative impact of the cost and enforcing such regulation would far outweigh any potential positive results. (JLR)

Comment: It would also increase record keeping and oversight on the part of IDEM. (GSE)

Response: IDEM does not anticipate an increase in record keeping or oversight as a result of this rulemaking, nor does it anticipate an increase in the state budget from the implementation of this rulemaking. Amending the current definition of "antique vehicle" to limit the subset of vehicles 25 years or older that are not required to have an I/M test will ensure that the air quality gains over the last 20 years resulting from vehicle testing under the I/M program in Lake and Porter counties are maintained. The actual fiscal impact to the state and regulated community of this rulemaking will be negligible.

Comment: It would be a significant burden in terms of cost to implement such changes as well as modifying these infrequently driven classics. (TM)

Comment: The change would require significant effort from the owners of antique vehicles. (GSE)

Response: IDEM does not believe that this rulemaking will result in a new burden on the owner of a 1976 or newer vehicle. The proposed rule amendment would not require modifying infrequently driven classics. The proposed rule amendment would provide an exemption from I/M testing to vehicles that are at least 25 years old, registered and plated with a historic motor vehicle plate with the Indiana bureau of motor vehicles, driven a maximum of 3,000 miles per calendar year, and that have in place the federally required pollution control equipment for that make and model year.

Comment: The state could spend its time on other sources of pollution other than changing the antique vehicle designation. (NJW, JAS, JK, VLB, NATMUS, TF, BCG)

Response: Amending the "antique vehicle" definition at [326 IAC 13-1.1](#) is required to eliminate a regulatory gap created in a previous rulemaking. The improvements in air quality in Lake and Porter counties over the past 20 years are due in part to improvements in pollution control equipment on motor vehicles. The I/M program ensures that the pollution control systems on vehicles that are vintage 1976 or newer operate correctly. There are approximately 4,600 vehicles of vintage 1976-1984 that would not be required to have an I/M test under the current exemption. These are some of the oldest, potentially highest polluting cars in these two counties. Assuring that the pollution control systems on these vehicles operate correctly will ensure that air quality gains of the last 20 years are maintained and will contribute to regional air quality attainment.

Comment: You are going to put a lot of hardship onto people that just want to be left alone to keep the classic American cars alive for future generations to enjoy. (VLB)

Comment: The sole purpose of this redefinition would be to shift more of the burden onto a minority segment of the automotive base in Indiana. (JAS)

Comment: With today's economy, I would not think that this legislation would do anyone any good by cutting off this type of revenue (from car shows) to these cities and small towns and by enforcing this legislation you would be severely restricting the collecting and usage of the antique/vintage automobiles. (MC)

Response: This rulemaking will not result in a lot of hardship for people that just want to be left alone to keep the classic American cars alive for future generations to enjoy. Redefining "antique vehicle" will not shift more of

the burden onto a minority segment of the automotive base in Indiana. Redefining "antique vehicle" will not cut off revenue (from car shows) to cities and small towns nor will it restrict the collecting and usage of antique/vintage automobiles.

The current rule exempts a motor vehicle or motor scooter in Lake or Porter counties that is at least 25 years old from I/M testing requirements. The breadth of this exemption is beyond what was intended by the prior rulemaking as it exempts approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. This rulemaking will clarify the intent of the prior rulemaking which was to allow vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from testing.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On July 1, 2009, the Air Pollution Control Board (board) conducted the first public hearing/board meeting concerning the development of amendments to [326 IAC 13-1.1](#). Comments were made by the following parties:

Auto Clubs Council of Indiana, Inc. (ACC)

Hagerty Plus (HP)

Improving Kids' Environment (IKE)

Specialty Equipment Market Association (SEMA)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: This is a rule that has caused a great deal of confusion. Whether or not this reaction is founded, it deserves real consideration by this Board. If there is an alternative by which the goals of IDEM might be met without causing consternation among car hobbyists, it is worth exploring. We look forward to an opportunity to work toward a viable, long-term opportunity that suits IDEM and all interested parties. (HP)

Comment: SEMA supports the goal of improved air quality and believes that further emission reductions from mobile sources are possible. We are convinced that these amendments would cause definite and unnecessary burdens on Indiana citizens for no verifiable emissions reduction benefit. We recommend a withdrawal of these amendments and retention of the current emissions test exemption as currently constituted. (SEMA)

Comment: We would like to request extending action on this ruling and allowing the Auto Clubs Council of Indiana, Hagerty, and SEMA to each appoint a representative to work with the Indiana Department of Environmental Management staff to compose a more equitable and reasonable rule that might be acceptable to everybody. (ACC)

Comment: If there are further discussions with interested parties, we would be pleased to participate in those. (IKE)

Response: IDEM has agreed to meet with interested parties in order to determine if there are any alternatives that should be taken in the rulemaking prior to final adoption of the rule and will be sure to include the Auto Clubs Council of Indiana, Hagerty Plus, Improving Kids' Environment, and Specialty Equipment Market Association in the discussions.

Comment: This particular rule change is very important for Indiana to maintain federal approval of the vehicle inspection and maintenance program and to make sure that all vehicles that should be tested under that program in fact are tested. The program applies only to Lake and Porter Counties and also applies only to cars built in 1976 and after. When the rule was initially adopted, a car that was 25 years old or older would not have even been in the program, so this is an issue that has now come about because it is 2009 instead of the 1980's or 1990's. The proposed rule clarifies what constitutes an antique vehicle. Antique cars are exempted from the emissions testing program, old cars are not, and old cars, in fact, are among the most important to test. That does not mean that newer cars cannot also be emitting excessively, but old cars certainly are ones we are concerned about. This change will not affect any person's ability to own or enjoy an antique car, as long as it meets a reasonable definition. Improving Kids' Environment supports the rule change and we urge you to go ahead and propose the rule today. This is an important rule for Indiana's program and we urge you to go ahead with it. (IKE)

Response: The commenter is correct in that this rule is very important for Indiana to maintain federal approval of the I/M program; however, the rule as amended that exempts vehicles that are at least 25 years old from I/M testing requirements represents a relaxation of the ozone state implementation plan and is not federally approvable. The commenter is also correct in that the I/M rule, [326 IAC 13-1.1](#), only applies to light-duty and medium-duty motor vehicles that are model years 1976 and newer that are primarily operated in Lake County or Porter County. In addition, IDEM agrees that this rulemaking will not affect any person's ability to own or enjoy an antique vehicle.

IDEM agrees that when the I/M testing program was initially adopted in 1984, a motor vehicle that was 25 years old or older would not have been tested and the exemption of antique vehicles was not necessary at that time. Antique vehicles were added as a specific exemption in a 2006 rulemaking (LSA # 06-284(F)). However, the current definition of "antique vehicle" is overly broad and results in approximately 4,600 of the oldest, potentially highest polluting cars and trucks in the testable fleet in Lake and Porter counties being exempted from testing requirements solely because they are at least 25 years old. This rulemaking will clarify the intent of the prior

rulemaking which was to allow vehicles registered as antique vehicles with a historic vehicle license plate and used primarily as demonstration, display, or rally vehicles to be exempt from testing. It will ensure continued compliance with the national ambient air quality standard for ozone and will contribute to regional ozone attainment efforts.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Alison Surface

IDEM Compliance and Technical Assistance Program - OPPTA

MC 60-04 IGCS W041

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 232-8172 or (800) 988-7901

ctap@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Brad Baughn

IDEM Small Business Assistance Program Ombudsman

MC 50-01 IGCN 1307

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 234-3386

bbaughn@idem.in.gov

326 IAC 13-1.1-1

SECTION 1. [326 IAC 13-1.1-1](#) IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-1 Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 9-13-2-3](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. The following definitions apply throughout this rule:

(1) "Antique vehicle" ~~has the meaning set forth in [IC 9-13-2-3](#).~~ **means a vehicle that meets the following criteria:**

(A) The vehicle must be:

(i) at least twenty-five (25) years old; and

(ii) registered and plated as a historic motor vehicle with the Indiana bureau of motor vehicles.

(B) The vehicle is driven a maximum of three thousand (3,000) miles per calendar year.

(C) Federally required pollution control equipment for that make and model year vehicle must be in place.

(D) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the requirements of this subdivision have been met.

(2) "Basic inspection/maintenance (I/M)" means an I/M program that meets the requirements for a basic I/M program as defined in 40 CFR 51, Subpart S*.

(3) "Bureau" means the bureau of motor vehicles.

(4) "Centralized" means a vehicle emissions testing facility capable of performing enhanced I/M, OBDII, and basic I/M idle testing on motor vehicles.

(5) "Certificate of compliance" means a certificate issued to motor vehicle owners or operators:

(A) passing the emissions test and tampering inspection; or

(B) receiving a waiver pursuant to this rule, which must be presented to the bureau in order to receive a certificate of registration.

(6) "Certified configuration" means an engine or engine-chassis design that has been certified by the U.S. EPA under 40 CFR 86* prior to the production of vehicles with that design.

(7) "Certified inspection and maintenance (I/M) emissions repair technician" means a technician that has

- satisfactorily completed approved department certified I/M emission repair technician training.
- (8) "Certified inspector" means a contracted employee that has satisfactorily completed approved department certified inspector training.
- (9) "Contractor" means any:
- (A) offeror or organization selected as a result of the state procurement process to operate a vehicle emission testing program; and
 - (B) employees of the offeror or organization in clause (A).
- (10) "Dedicated alternative fuel vehicle" means a vehicle that is not capable of running on gasoline at any time.
- (11) "Department" means the department of environmental management or its contractor.
- (12) "Diagnostic trouble code" means a code number generated by a vehicle's on-board computer that corresponds to a specific vehicle component malfunction.
- (13) "Dual fuel vehicle" means a vehicle capable of operating on either:
- (A) gasoline; or
 - (B) one (1) of the fuels stated in section 4(b) of this rule.
- (14) "Enhanced I/M" means an I/M program that meets the requirements for an enhanced I/M program as defined in 40 CFR 51, Subpart S*.
- (15) "Facility" means a motor vehicle testing location, either mobile or stationary:
- (A) operated by the contractor; and
 - (B) established in accordance with this rule.
- (16) "Fleet" means a group of light-duty motor vehicles, medium-duty motor vehicles, or a combination thereof owned or operated by:
- (A) an individual;
 - (B) a company;
 - (C) a corporation; or
 - (D) a federal, state, or local government unit.
- (17) "Heavy-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating (GVWR) greater than nine thousand (9,000) pounds.
- (18) "Idle test" means a single speed idle test as described in 40 CFR 51, Subpart S, Appendix B*.
- (19) "I/M" means inspection/maintenance.
- (20) "I/M 240" means a transient emission test as described in 40 CFR 51, Subpart S, Appendix B*.
- (21) "I/M 93" means a version of I/M 240 that:
- (A) is shorter in duration by utilizing only phase I (ninety-three (93) second drive trace) of the I/M 240 driving cycle; and
 - (B) allows a second attempt to pass.
- (22) "Light-duty motor vehicle" means a motor vehicle with a GVWR less than or equal to six thousand (6,000) pounds.
- (23) "Medium-duty motor vehicle" means a motor vehicle with a GVWR of:
- (A) six thousand one (6,001) pounds or greater; and
 - (B) less than or equal to nine thousand (9,000) pounds.
- (24) "Motor vehicle" means a self-propelled vehicle used on the public roads.
- (25) "Motor vehicle emission inspector" means an individual meeting the requirements of section 15 of this rule.
- (26) "Motor vehicle model year" or "model year" means the date of manufacture of the original motor vehicle within the annual production period of the motor vehicle as designated by the manufacturer.
- (27) "Motorcycle" means a motor vehicle:
- (A) having a seat or saddle for the rider; and
 - (B) designed to travel on not more than three (3) wheels in contact with the ground.
- (28) "OBDII" means second generation on-board diagnostics systems.
- (29) "Pressure test" means a test that pressurizes the evaporative system to check for leakage as described in "IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000** and 40 CFR 51*.
- (30) "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in "IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000** and 40 CFR 51*.
- (31) "Recall" means a voluntary emissions recall as described in 40 CFR 85.1902(d)*.
- (32) "Show vehicle" means a vehicle that meets the following criteria:
- (A) The vehicle must be exhibited at a car show at least twice a calendar year as verified through car show registration or entrance forms.
 - (B) The vehicle shall be restricted to the addition of three thousand (3,000) miles per calendar year to the vehicle.
 - (C) The condition of the vehicle must be show quality, indicated by the interior and exterior of the vehicle maintained in good condition.

- (D) The vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that it is still a show vehicle.
- (33) "Tampering check" means a visual inspection of the following:
 - (A) Catalytic converters.
 - (B) Fuel filler caps.
 - (C) Positive crankcase ventilation (PCV) systems.
 - (D) Evaporative systems.
- (34) "VIN" means vehicle identification number.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

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